

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GEORGE BARTZ,  
  
Plaintiff,  
  
vs.  
  
MAGGIE MILLER-STOUT,  
  
Defendant.

NO. CV-08-272-CI

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND DISMISSING  
FIRST AMENDED COMPLAINT WITHOUT  
PREJUDICE

**1915 (g)**

BEFORE THE COURT is Plaintiff's Objection to Report and Recommendation to Dismiss Without Prejudice First Amended Complaint (Ct. Rec. 36). Plaintiff, a *pro se* prisoner at the Airway Heights Correction Center, has paid the full filing fee; Defendant was not served.

After review of Mr. Bartz Objections and the file as a whole, for the reasons set forth by the Magistrate Judge, **IT IS ORDERED** the Report and Recommendation (Ct. Rec. 35) is **ADOPTED in its entirety**. **IT IS ORDERED** the First Amended Complaint is **DISMISSED without prejudice** for failure to state a claim upon which relief may be granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). **IT IS FURTHER ORDERED** all pending motions are **DENIED as moot**.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING FIRST AMENDED COMPLAINT WITHOUT PREJUDICE -- 1

1 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a  
2 prisoner who brings three or more civil actions or appeals which are  
3 dismissed as frivolous or for failure to state a claim will be  
4 precluded from bringing any other civil action or appeal *in forma*  
5 *pauperis* "unless the prisoner is under imminent danger of serious  
6 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read  
7 the new statutory provisions under 28 U.S.C. § 1915. This dismissal  
8 of Plaintiff's complaint may count as one of the three dismissals  
9 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to  
10 file future claims.

11 **IT IS SO ORDERED.** The District Court Executive is directed to  
12 enter this Order, forward a copy to Plaintiff at his last known  
13 address, enter judgment, and close the file. The District Court  
14 Executive is further directed to forward a copy of this Order to the  
15 Office of the Attorney General of Washington, Criminal Justice  
16 Division.

17 **DATED** this 9th day of November, 2009.

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19 ***s/Lonny R. Suko***

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21 LONNY R. SUKO  
22 CHIEF UNITED STATES DISTRICT JUDGE  
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